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O - Module 142 diagram - Subject Rivas.

P - Module 142 pictures used for reference during Subject Rivas' IAB interview.

Q - DVD containing miscellaneous pictures in ICIB case.

R - DVD containing witness interviews by Witness Sergeant Giunta, and ICIB Sergeant Allen Kunihiro.

S - DVD containing audio interviews by Witness Sergeant Giunta and ICIB Sergeant Allen Kunihiro.

MISCELLANEOUS DOCUMENTS

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY
IAB CASE #IV2148668

COMPLAINANT: NOT APPLICABLE

SUBJECT: MARCO RIVAS, Deputy Sheriff Generalist, #[redacted], MH/42

LOCATION: Twin Towers Correctional Facility, 450 Bauchet Street, Los Angeles, California, 90012.

DATE/TIME OF INCIDENT: May 4, 2005, 0810 hours.

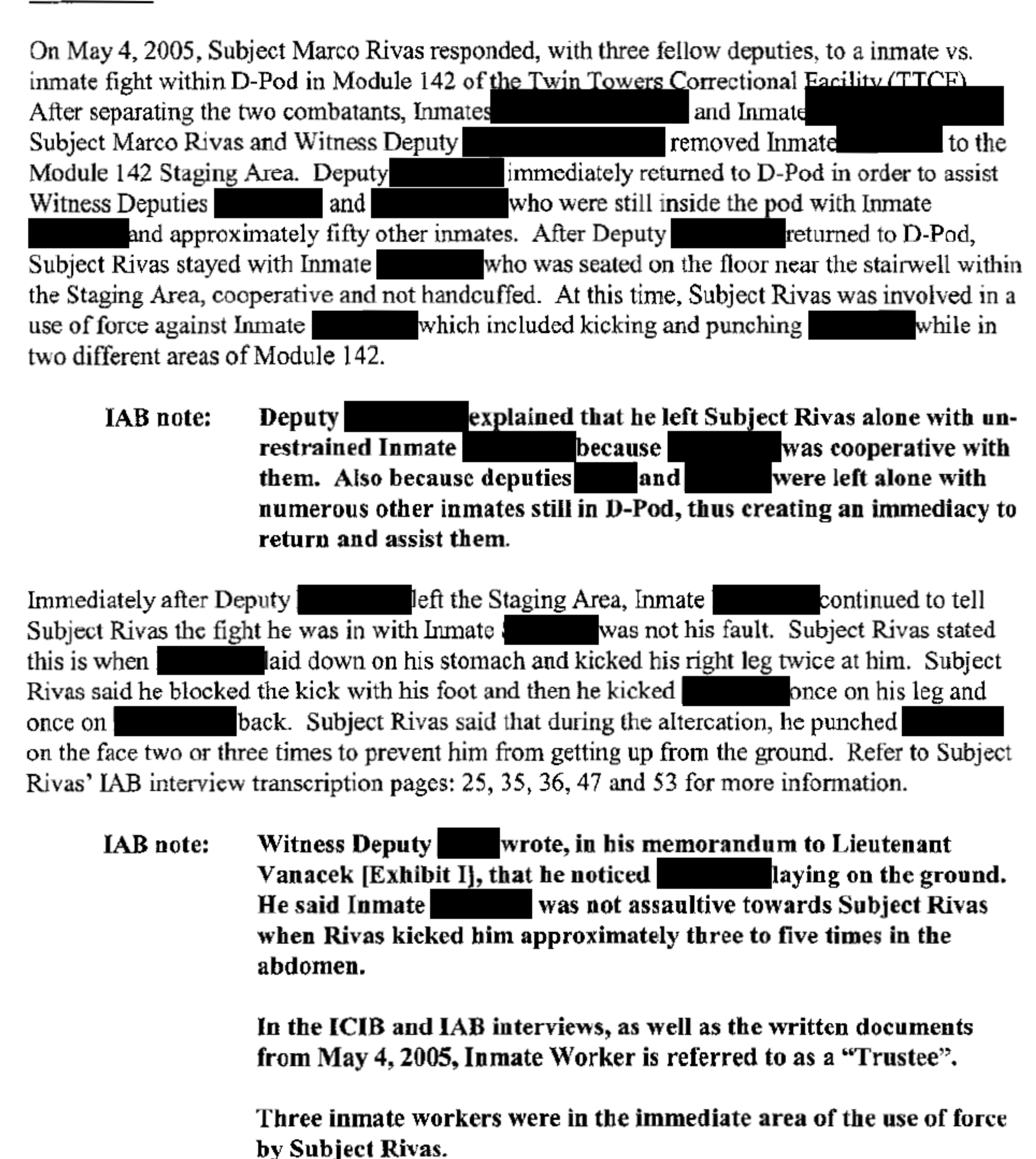
DATE OF DEPARTMENT KNOWLEDGE: May 4, 2005

ALLEGATIONS

This case pertains to allegations that Subject Deputy Marco Rivas, while on-duty: (1) used unreasonable/unnecessary force (2) did not report his use of force to a supervisor in a timely manner (3) wrote false reports regarding his use of force and (4) was not obedient to laws regulations and orders.

POLICY SECTIONS

1.	Use of Force	3-01/025.00
2.	Unreasonable Force	3-01/025.10
3.	General Behavior	3-01/030.05
4.	Obedience to Laws, Regulations, and Orders	3-01/030.10
5.	Performance to Standards	3-01/050.10
6.	Use of Force Reporting Procedures	5-09/430.00



SYNOPSIS

On May 4, 2005, Subject Marco Rivas responded, with three fellow deputies, to a inmate vs. inmate fight within D-Pod in Module 142 of the Twin Towers Correctional Facility (TTCF). After separating the two combatants, Inmates [redacted] and Inmate [redacted] Subject Marco Rivas and Witness Deputy [redacted] removed Inmate [redacted] to the Module 142 Staging Area. Deputy [redacted] immediately returned to D-Pod in order to assist Witness Deputies [redacted] and [redacted] who were still inside the pod with Inmate [redacted] and approximately fifty other inmates. After Deputy [redacted] returned to D-Pod, Subject Rivas stayed with Inmate [redacted] who was seated on the floor near the stairwell within the Staging Area, cooperative and not handcuffed. At this time, Subject Rivas was involved in a use of force against Inmate [redacted] which included kicking and punching [redacted] while in two different areas of Module 142.

IAB note: **Deputy [redacted] explained that he left Subject Rivas alone with un-restrained Inmate [redacted] because [redacted] was cooperative with them. Also because deputies [redacted] and [redacted] were left alone with numerous other inmates still in D-Pod, thus creating an immediacy to return and assist them.**

Immediately after Deputy [redacted] left the Staging Area, Inmate [redacted] continued to tell Subject Rivas the fight he was in with Inmate [redacted] was not his fault. Subject Rivas stated this is when [redacted] laid down on his stomach and kicked his right leg twice at him. Subject Rivas said he blocked the kick with his foot and then he kicked [redacted] once on his leg and once on [redacted] back. Subject Rivas said that during the altercation, he punched [redacted] on the face two or three times to prevent him from getting up from the ground. Refer to Subject Rivas' IAB interview transcription pages: 25, 35, 36, 47 and 53 for more information.

IAB note: **Witness Deputy [redacted] wrote, in his memorandum to Lieutenant Vanacek [Exhibit I], that he noticed [redacted] laying on the ground. He said Inmate [redacted] was not assaultive towards Subject Rivas when Rivas kicked him approximately three to five times in the abdomen.**

In the ICIB and IAB interviews, as well as the written documents from May 4, 2005, Inmate Worker is referred to as a "Trustee".

Three inmate workers were in the immediate area of the use of force by Subject Rivas.

Witness Inmate [redacted] stated he was standing within fifteen feet of Subject Rivas and Inmate [redacted] and noticed [redacted] was cooperative and not assaultive or threatening. [redacted] said Subject Rivas kicked [redacted] numerous times because he was mad at [redacted] for unknown reasons. Please refer to Witness [redacted] IAB interview transcription for additional information.

Witness Inmate [redacted] stated he was standing next to Inmate [redacted] at the time of the incident. He said [redacted] was cooperative and did not assault Subject Rivas at any time. He saw Subject Rivas kick [redacted] numerous times about his body.

A third Inmate, [redacted] was standing next to [redacted] and [redacted] at the time of the incident but stated he did not witness what happened.

Subject Rivas noticed the three Inmate Workers a short distance away. He stood Inmate [redacted] up after the last punch and walked him to the "A, B, C Outdoor Recreation" area and near the toilet within that room. There he placed [redacted] facing towards a wall with [redacted] chest against the wall. He held [redacted] against the wall by placing his legs across the legs of [redacted] using his body weight to hold [redacted] against the wall. [redacted] continued to turn his head to the side and he told Subject Rivas the fight was not his fault. Subject Rivas took [redacted] behavior as being resistive to his commands to face the wall and punched [redacted] three to five times on the back.

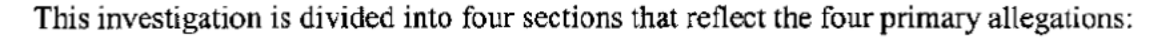
IAB note: **Witness Deputy [redacted] said in his IAB interview, he saw Inmate [redacted] laying on his left side near the toilet area when Subject Rivas kicked [redacted] on the abdomen approximately ten times. He also wrote this same observation in a memorandum [Exhibit J].**

Subject Rivas said Deputy [redacted] arrived afterwards and ordered Inmate [redacted] to kneel on the ground and be quiet and [redacted] complied. Both deputies exited the room, locking [redacted] alone inside the room un-restrained.

Subject Rivas waited approximately eighty minutes to report his use of force to a supervisor and later wrote a "Incident Report" and a "Use Of Force" memorandum documenting the incident. [Exhibits E & F]

Subject Rivas was ultimately investigated by Internal Criminal Investigation Bureau and charges were filed with the District Attorney. He pled guilty, was convicted and sentenced for a misdemeanor charge of Assault Under The Color Of Authority - 149 P.C.

INVESTIGATION



This investigation is divided into four sections that reflect the four primary allegations:

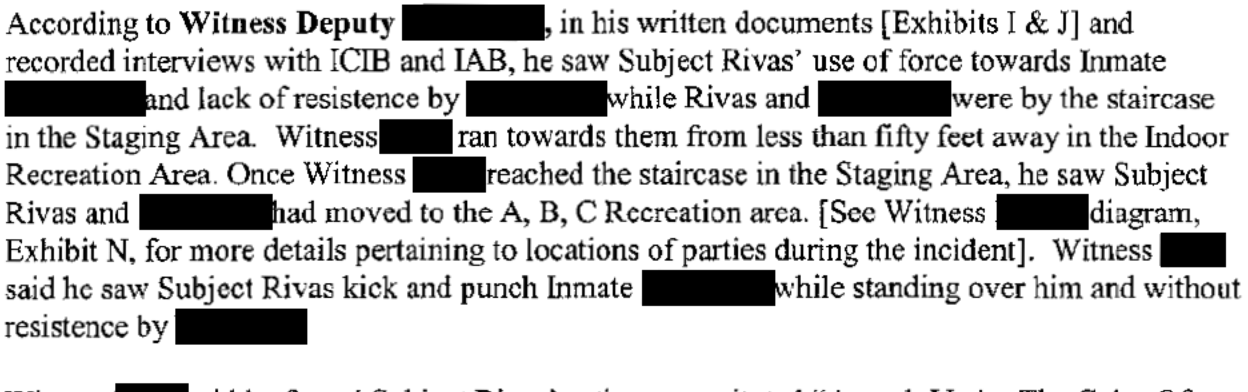
I. The subject used unnecessary and unreasonable force against Inmate [redacted]

II. The subject did not report his use of force to a supervisor in a timely manner.

III. The subject wrote false statements regarding his use of force.

IV. The subject was not obedient to laws, regulations and orders by his committing the criminal act of "Assault Under The Color Of Authority- 149 of the California Penal Code.

Section I - Alleged - Unreasonable Force used by the Subject against Inmate [redacted]



According to **Witness Deputy** [redacted], in his written documents [Exhibits I & J] and recorded interviews with ICIB and IAB, he saw Subject Rivas' use of force towards Inmate [redacted] and lack of resistence by [redacted] while Rivas and [redacted] were by the staircase in the Staging Area. Witness [redacted] ran towards them from less than fifty feet away in the Indoor Recreation Area. Once Witness [redacted] reached the staircase in the Staging Area, he saw Subject Rivas and [redacted] had moved to the A, B, C Recreation area. [See Witness [redacted] diagram, Exhibit N, for more details pertaining to locations of parties during the incident]. Witness [redacted] said he saw Subject Rivas kick and punch Inmate [redacted] while standing over him and without resistence by [redacted]

Witness [redacted] said he feared Subject Rivas' actions constituted "Assault Under The Color Of Authority" because [redacted] was not resisting nor was he assaultive towards Subject Rivas. Witness [redacted] added that he formed the same opinion that Subject Rivas was assaulting [redacted] when he saw Subject Rivas kicking [redacted] again at the second location (A, B, C Outdoor Recreation area) while [redacted] was not assaultive or resistive, and while [redacted] was laying on the ground.

Witness [redacted] said he was upset at what he witnessed and when he asked Subject Rivas if he was going to report the incident, Subject Rivas questioned: "Oh, you saw that huh?". He then said he would not report it and gave alternate ways of handling it such as utilizing the "Inmate Report Tracking System" (IRTS). Witness [redacted] said he tried a total of four times to convince

Subject Rivas to report his use of force to a supervisor. However, he was left with the impression from Rivas, that nothing would be reported to a supervisor. Witness [redacted] said he did not want to get in trouble for the actions of Subject Rivas, so he explained to Deputy [redacted] what he saw and that Subject Rivas refused to report his use of force. It was his hope Deputy [redacted] would talk to Subject Rivas and convince him to report the force.

Witness [redacted] said he believed Subject Rivas would never report the incident to a supervisor, even after being told of possible outcomes of criminal investigation, discipline and the fact he ([redacted] intended to report it. Witness [redacted] reported the incident to Sergeant Joseph Giunta, approximately forty minutes after the incident because he believed he saw Subject Rivas use unreasonable force on Inmate [redacted] Witness [redacted] said he saw three Inmate Workers standing within feet of Subject Rivas and Inmate [redacted] and he wanted Sergeant Giunta to know the Inmate Workers may have witnessed Subject Rivas' use of force against Inmate [redacted] Witness [redacted] said he told the three Inmate Workers that a sergeant would interview them and they should tell the truth as to what they saw. Refer to the following Inmate Worker [redacted] and Inmate Worker [redacted] witness statements.

IAB note: [redacted]

According to **Witness Inmate Worker** [redacted] he watched and listened from approximately four feet away, as Subject Rivas kicked and punched Inmate [redacted] numerous times while [redacted] was standing and then laying on the ground near the staircase in the Staging Area. He said [redacted] was not resistive or assaultive towards Subject Rivas at any time during the incident. Witness [redacted] said [redacted] made numerous comments to the effect that he did not do anything wrong. He said he heard Subject Rivas make statements to [redacted] such as "I told you don't be messin' up in my pod" [See pages 4 and 9 of Witness [redacted] IAB interview transcription].

Witness Inmate [redacted] said he watched Subject Rivas walk [redacted] to the A, B, C Outdoor Recreation area and out of his view. He did not move to a position to see what happened between Subject Rivas and Inmate [redacted] in the A, B, C Outdoor Recreation area. He said he heard sounds, coming from the recreation room, of a person being hit such as the sound of air being exhaled and grunting type sounds but he ([redacted] did not know who was making the sounds. Witness Inmate [redacted] added that Subject Rivas later approached him and the other two Inmate Workers who were present at the time of the incident, and stated a question in the form of a statement: "I know you guys didn't see anything" [See page 15 of the [redacted] transcription].

IAB note: **Subject Rivas denied making coercive statements to the inmates. Refer to pages 104 and 105 of Subject Rivas' IAB interview transcription.**

According to **Witness Inmate** [redacted], in a recorded interview with Sergeant Giunta and Sergeant Brian Fitch on May 4, 2005, he was standing approximately five to six feet from the staircase in the Staging Area where part of the incident occurred. He said he saw Subject Rivas kick and punch Inmate [redacted] numerous times, while [redacted] was laying on the ground. He added that [redacted] did not resist in any way. He also said he did not see or hear [redacted] make threatening remarks or gestures towards Subject Rivas. He heard Subject Rivas ask [redacted] "Didn't I tell you if you had something to say, say it to me?". Witness [redacted] said Subject Rivas took Inmate [redacted] to the A, B ,C Outdoor Recreation area but he could not see what happened in there because they were out of his view. He said he heard the sounds of what he believed was Subject Rivas kicking [redacted] He described the sounds as wincing, screaming and the sounds similar to that of someone hitting a punching bag. He knew that no other persons were in the recreation area at the time.

IAB note: **Witness Inmate [redacted] was not interviewed again for this IAB investigation. He had been transferred from Los Angeles County custody to start a term in State Prison for unrelated charges shortly after the incident. His witness account is summarized by Sergeant Allen Kunihiro of the Internal Criminal Investigations Bureau and in his video taped interview by Sergeant Giunta of TTCF on May 4, 2005. [Exhibit A - Volume 2 of 2]**

According to **Inmate** [redacted] in his tape recorded interview by Sergeants Giunta and Fitch on May 4, 2005 and his interview by Sergeant Kunihiro on May 5, 2005, he was assaulted by Subject Rivas for no reason. He said that he never made threatening remarks or gestures that would lead Subject Rivas to believe he was going to harm him.

Inmate [redacted] said he was in a physical fight with another inmate. When the fight ended, he was taken to the Staging Area by Subject Rivas and Deputy [redacted] He said that while left alone in the Staging Area with Subject Rivas, he was kicked and punched numerous times by Subject Rivas. He also said that Subject Rivas struck him with a flashlight on his back. Inmate [redacted] said Subject Rivas assaulted him as "punishment" for being in a fight inside the module. Refer to his written statement on the "Inmate Injury Report" [Exhibit K].

IAB note: **There is no evidence or witness statements to support [redacted] claim of being struck with a flashlight. When seen by medical staff, no indication of him having been hit with a flashlight was noted. (See "Inmate Injury Report" - Exhibit K)**

Inmate [redacted] said he did not resist in any way either in the Staging Area or when he was taken by Subject Rivas to the A, B, C Outdoor Recreation area. He added that he was kicked numerous times by Subject Rivas while in the A, B, C Outdoor Recreation area, again for no reason.

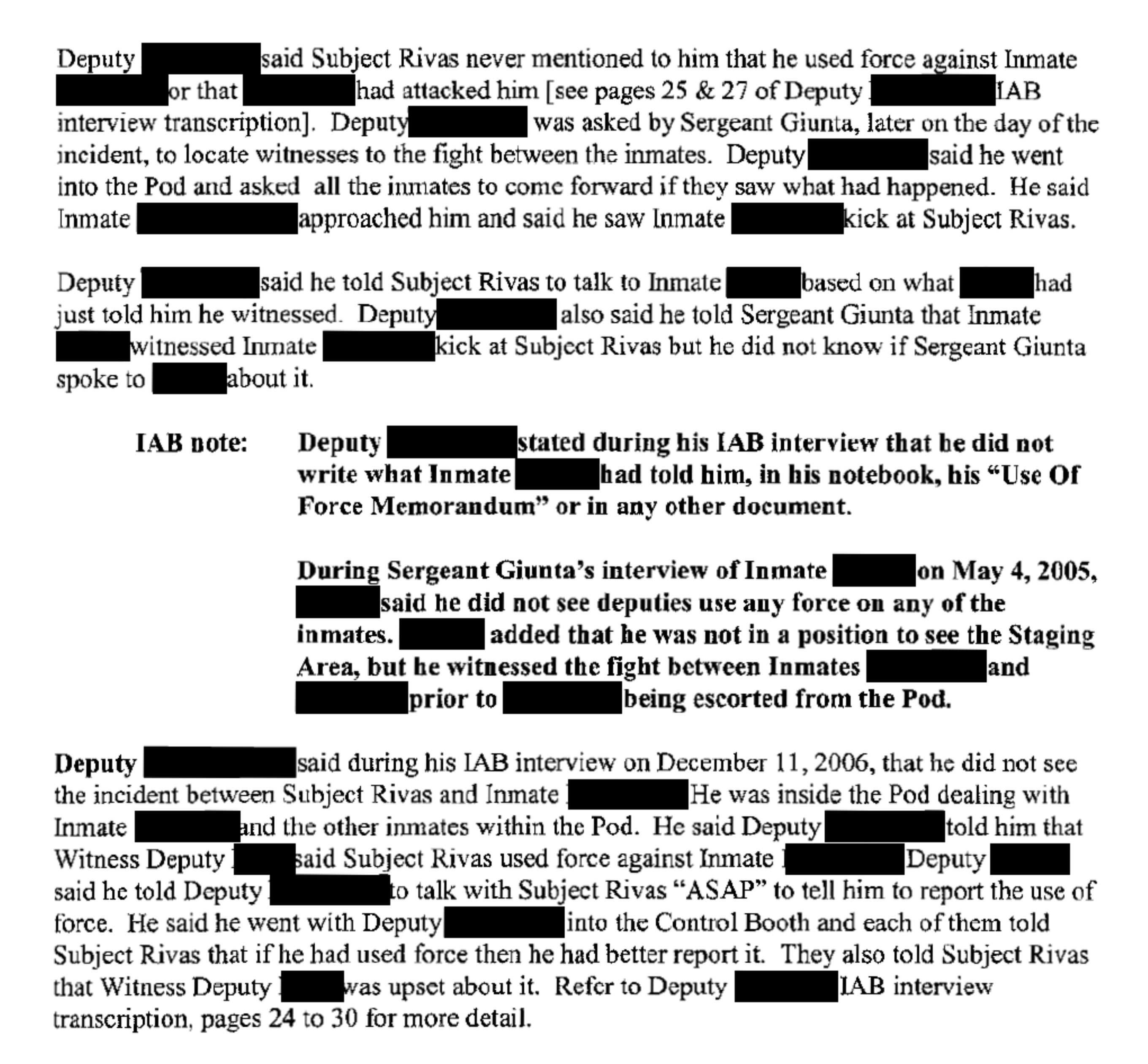
Inmate [redacted] was taken to the medical clinic at TTCF and treated by Alex Tarawally on May 4, 2005 at 1205 hours. On the Inmate Injury Report [Exhibit K], Mr. Tarawally wrote; "I/M (Inmate) brought to the clinic by deputies. I/M said he was in a fight and was kicked in the left rib. C/O (complained of) extreme left rib pain - he also C/O bite mark on left hand, not seen by writer. I/M as referred to MD for assessment. I/M has bruise marks on neck and nose."

IAB note: **Inmate [redacted] wrote a statement of this incident on the "Inmate Injury Report" [Exhibit K], claiming he was hit and kicked by Subject Rivas. ICIB investigators took pictures of the boots Subject Rivas was wearing at the time he kicked [redacted] [first two pictures of Exhibit R].**

Refer to the pictures of Inmate [redacted] injuries received either during his fight with Inmate [redacted], prior to the use of force, and/or as a result of Subject Rivas' force used against him [Exhibit D]. Inmate [redacted] said all the red marks on his back (recorded on video by Sergeant Giunta) were the result of Subject Rivas hitting and kicking him.

Inmate [redacted] was interviewed, on video, by Sergeant Giunta of TTCF regarding this incident [Exhibit T]. He was later released from custody. He was not interviewed again for this IAB investigation.

Deputy [redacted] was interviewed on December 12, 2006 by IAB Sergeant Denison. Deputy [redacted] said; at the time Inmate [redacted] was removed from D-Pod, following the fight with Inmate [redacted] was cooperative with him. He said [redacted] was upset about the fight but otherwise he did not resist being moved to the Staging Area and he was not restrained in any way. Deputy [redacted] believed [redacted] was under control in Subject Rivas' care, so Deputy [redacted] returned to D-Pod to assist Deputies [redacted] and [redacted] with the other inmates. Deputy [redacted] did not witness the use of force but was later told by Witness Deputy [redacted] that Subject Rivas had used force against [redacted] and Rivas was not going to report it. Deputy [redacted] said he asked Deputy [redacted] what had happened between Subject Rivas and Inmate [redacted] and [redacted] told him he did not know. Deputy [redacted] said he told Deputy [redacted] what Witness Deputy [redacted] had said; "Rivas went too far". Both Deputy [redacted] and Deputy [redacted] told Subject Rivas that if he used force, he needed to report it [see page 33 of Deputy [redacted] IAB interview transcription].



Deputy [redacted] said Subject Rivas never mentioned to him that he used force against Inmate [redacted] or that [redacted] had attacked him [see pages 25 & 27 of Deputy [redacted] IAB interview transcription]. Deputy [redacted] was asked by Sergeant Giunta, later on the day of the incident, to locate witnesses to the fight between the inmates. Deputy [redacted] said he went into the Pod and asked all the inmates to come forward if they saw what had happened. He said Inmate [redacted] approached him and said he saw Inmate [redacted] kick at Subject Rivas.

Deputy [redacted] said he told Subject Rivas to talk to Inmate [redacted] based on what [redacted] had just told him he witnessed. Deputy [redacted] also said he told Sergeant Giunta that Inmate [redacted] witnessed Inmate [redacted] kick at Subject Rivas but he did not know if Sergeant Giunta spoke to [redacted] about it.

IAB note: **Deputy [redacted] stated during his IAB interview that he did not write what Inmate [redacted] had told him, in his notebook, his "Use Of Force Memorandum" or in any other document.**

During Sergeant Giunta's interview of Inmate [redacted] on May 4, 2005, [redacted] said he did not see deputies use any force on any of the inmates. [redacted] added that he was not in a position to see the Staging Area, but he witnessed the fight between Inmates [redacted] and [redacted] prior to [redacted] being escorted from the Pod.

Deputy [redacted] said during his IAB interview on December 11, 2006, that he did not see the incident between Subject Rivas and Inmate [redacted] He was inside the Pod dealing with Inmate [redacted] and the other inmates within the Pod. He said Deputy [redacted] told him that Witness Deputy [redacted] said Subject Rivas used force against Inmate [redacted] Deputy [redacted] said he told Deputy [redacted] to talk with Subject Rivas "ASAP" to tell him to report the use of force. He said he went with Deputy [redacted] into the Control Booth and each of them told Subject Rivas that if he had used force then he had better report it. They also told Subject Rivas that Witness Deputy [redacted] was upset about it. Refer to Deputy [redacted] IAB interview transcription, pages 24 to 30 for more detail.

<u>Section II - Alleged - Subject Rivas failed to report his Use Of Force to a Supervisor in a timely manner.</u>

Subject Rivas said during his IAB interview on December 14, 2006, that he failed to report his use of force in a timely manner to a supervisor because he attended briefing after the use of force and he was busy doing his other duties within the module. He said the duties included assisting with Pill Call, issuing Inmate Passes and general supervision of inmates within the Pods. He said

he had no excuse for delaying approximately 1 ½ hours before reporting the force to Sergeant Giunta. Subject Rivas added that he knew, prior to the incident, that "immediate notification to a supervisor" must be done after having used force as per policy.

Subject Rivas stated during his interview: "Sergeant, at no point I was trying to hide the use of force. At no point. And, and that's why I'm in this situation. It, it is...I'm paying for one of my mistakes, not reporting force right away..." "That's what all this inconvenience in my, in my life and that's why I'm here because I did not report the force on time..." Refer to page 89 of Subject Rivas' interview transcription.

IAB note: **Sergeant Giunta wrote in his second memorandum to Lieutenant Vanacek dated May 6, 2005, when he questioned Subject Rivas about reporting his use of force two hours late, Subject Rivas replied: "I fucked up. It's my fault and they called briefing. I dropped the ball. But we were busy on the floor with pill-call and passes." [Exhibit H]**

According to Sergeant Giunta, Witness Deputy [redacted] said it was his ([redacted]) belief that Subject Rivas was not going to report his use of force to a supervisor. Sergeant Giunta relayed this to Lieutenant Vanacek in a memorandum dated May 6, 2005 [Exhibit G].

IAB note: **Subject Rivas said during his IAB interview that Witness Deputy [redacted] told him to report his (Rivas') use of force. An excerpt from Subject Rivas' interview transcription on page 91:**
Rivas - "I went looking for [redacted] I talked to him and, and [redacted] started telling me, 'Dude, you better report the force, man, because we got families. We...I don't want to lose my job', blah, blah, blah."

<u>Section III - Alleged - Subject Rivas wrote false reports regarding his Use Of Force.</u>

Sergeant Giunta directed Subject Rivas to write a "Use Of Force Memorandum" detailing the force he used against Inmate [redacted] [Exhibit F].

Subject Rivas said during his IAB interview, that his "Incident Report" [Exhibit E] and his "Use of Force Memorandum" [Exhibit F] were true and accurate accounts of the incident in which he used force against Inmate [redacted]

Subject Rivas wrote that Inmate [redacted] went from being compliant to assaultive once he was laying on the ground in the Staging Area. He wrote that [redacted] kicked his legs in his (Rivas') direction, which Rivas blocked with his foot. Subject Rivas then kicked [redacted] once on his

right leg and once on his back. He wrote he ordered [redacted] to stop resisting and stop kicking but [redacted] did not comply. He wrote [redacted] tried to get up from the ground, so in order to stop him from doing so, he punched [redacted] on the face three to four times and once on his back. He then escorted Inmate [redacted] to the A, B, C Outdoor Recreation Area where [redacted] became resistive by not facing the wall as ordered. Subject Rivas wrote because of this, he punched [redacted] three to four times on his back and placed his right knee behind [redacted] legs.

IAB note: **Witness Deputy [redacted] wrote, in his memorandum to Lieutenant Vanacek [Exhibit I], he noticed [redacted] laying on the ground and that he was not assaultive towards Subject Rivas. However, Rivas kicked [redacted] approximately three to five times in the abdomen. Witness Deputy [redacted] also wrote in his "Use Of Force Memorandum" [Exhibit J] that he saw Subject Rivas kick Inmate [redacted] three to five times while in the Staging Area and then he saw Subject Rivas kick [redacted] approximately ten times while [redacted] lay on the ground in the Recreation Area.**

Witness Inmate [redacted] stated he was standing within fifteen feet of Subject Rivas and Inmate [redacted] and noticed [redacted] was cooperative and not assaultive or threatening. [redacted] said Subject Rivas kicked [redacted] numerous times because he was mad at [redacted] for unknown reasons. Please refer to Witness [redacted] IAB interview transcription for additional information.

Witness Inmate [redacted] stated he was standing next to Inmate [redacted] at the time of the incident. He said [redacted] was cooperative and did not assault Subject Rivas at any time. He saw Subject Rivas kick [redacted] numerous times about his body.

Inmate [redacted] wrote a statement on the "Inmate Injury Report" [Exhibit K] that Subject Rivas kicked, punched and struck him with a flashlight as punishment. He continued by writing that he was kicked again while in the Outdoor Recreation area.

Subject Rivas said during his IAB interview that he did not know why a fellow deputy, Inmate [redacted] and two Inmate workers (Witness [redacted] and Witness [redacted] would give a different version of the use of force. Refer to pages 104 and 105 of Subject Rivas' interview transcription.

Sergeant Giunta said in his IAB interview, that Subject Rivas could not verbally articulate the actions of Inmate [redacted] or his (Rivas') reasons for using force against him. Sergeant Giunta said Subject Rivas' report [Exhibit F] was equally vague in describing details of the incident.

Sergeant Giunta said Witness [redacted] Witness [redacted] and Witness [redacted] account of the incident were all very similar, but their version of what happened was different from that of what Subject Rivas said happened. See Sergeant Giunta's IAB interview transcription, pages 12 to 14.

IAB note: **During Sergeant Giunta's IAB interview, he was asked if there were any other concerns he had involving Subject Rivas, such as uses of force. He said he had no knowledge of**

Subject Rivas did not write anything regarding his use of force in his "Incident Report" which described the assault between Inmates [redacted] and [redacted] He believed the first report should be regarding the inmate vs. inmate fight only.

IAB note: **Subject Rivas wrote in a paragraph on page four that Deputy [redacted] was told by Inmate [redacted] that [redacted] had seen Inmate [redacted] act aggressively by kicking his feet at Subject Rivas [Exhibit E].**

As a result of the Internal Criminal Investigation Bureau's case [Exhibit A - see Volume 2 of 2], a Felony charge of Assault By A Public Officer-149 P.C. and a Felony charge of Filing A False Report-118.1 P.C. was placed against Subject Rivas by DDA Margo Baxter of the Los Angeles County District Attorney's Office, Bureau of Fraud and Corruption Prosecutions. A letter describing these charges was sent to Subject Rivas on January 18, 2006 [Exhibit B].

Sergeant Giunta said during his IAB interview, that on May 4, 2005, after Subject Rivas notified him of the force, he ordered Subject Rivas to write a Use Of Force Memorandum detailing the incident. Sergeant Giunta said he may have told Subject Rivas not to include details regarding his (Rivas') use of force in the Incident Report [Exhibit E] but he could not remember doing so. Refer to page 9 of Sergeant Giunta's interview transcription.

Per the court, the Filing A False Report- 118.1 P.C. charge was dismissed because Subject Rivas' reports were considered compelled documents. [Please refer to Sergeant Kunihiro's memorandum in the ICIB investigation, Volume 2 of 2, page #28].

Section IV - Alleged - Subject Rivas was not obedient to Laws, Regulations and Orders.

On February 7, 2006, Subject Rivas was arraigned in Department 30 of the Los Angeles Superior Court at the Clara Shortridge Foltz Criminal Justice Center. He was arrested and booked on the Felony charges of; Assault Under The Color Of Authority - 149 P.C. and Filing A False Report - 118.1 P.C.

On June 14, 2006, Subject Rivas was Held To Answer on one count of Felony Assault Under The Color Of Authority - 149 P.C.

On November 7, 2006, Subject Rivas plead guilty to one Misdemeanor count of Assault Under The Color Of Authority - 149 P.C. as part of a plea bargain with the District Attorney. The Felony count of 149 P.C. was dismissed "In Furtherance Of Justice". Subject Rivas was convicted and sentenced by the court to:

1) Summary Probation for 18 months.

2) Ordered to perform 160 hours of Community Service.

3) Ordered to pay a Restitution Fine in the amount of $100.00 to the court.

4) Ordered not to use Force Or Violence on the victim.

5) Ordered not to Harass, Molest or Annoy the victim.

6) Obey all Laws and Further Orders of the court.

7) Ordered to enroll and complete a 6-month Anger Management Program (26-weeks) to be verified by the court in a future court appearance.

See the Court Minutes detailing Subject Rivas' guilty plea and sentence for further details [Exhibit C].

During Subject Rivas' IAB interview, he denied that he committed the crime for which he plead guilty and was sentenced by the court. The following is an excerpt from Subject Rivas' IAB interview on December 14, 2006 pages 106 to 109. Sergeant Denison and Sergeant Garcia are conducting the interview, Deputy Rivas is the Subject and Mitchell Kander is Subject Rivas' attorney.

Denison: Were charges, criminal charges, filed against you in a court of law regarding this incident?

Rivas: Yes.

Denison: Ultimately, what happened in regards to this criminal case?

Rivas: I pled guilty to a 149, assault by public officer- misdemeanor.

Denison: Why did you plead guilty for that?

Rivas: Why, sergeant?

Denison: Why?

Rivas: Because I have a family. I needed to move on with my life and that was the only thing that was my best option. I have [redacted]. As a matter of fact, my [redacted] was about to be born when the department cut off my benefits. I was just kicked out in the street and said, "Hey, you know, we're not gonna fire you, but you gotta find a job." I couldn't even get a job because I couldn't even be a security guard 'cause I couldn't even get a, a security guard card. So I started doing odd jobs and everything. Well, a year, almost a year went by and we were gonna take it to trial, but when we were ready to go to trial on November 7, the District Attorney said that he...she was not ready to go to trial, so she said she was gonna drop the charges and refile again and go back to square one. So what I thought is, oh, my God, another year and a half. So my best option was to get it over with and that's why I accepted the charge. So I, so I can move on and come back to work and let it be a, a good learning experience and it has been a good learning experience.

Denison: Deputy Rivas, you were originally charged with a felony count, assault under the color of authority and originally a felony count of false police report, which was dropped. They added the charge of misdemeanor 149 assault. If the assault didn't happen the way you were charged, in other words, unnecessary force, if it didn't happen as you said it didn't happen, why would you plead guilty to it? I understand the family issue, but why would you plead guilty to a crime of assault if you didn't commit the assault?

Kander: He's already answered the question. He had other considerations and, and let the record reflect that at the time the plea was entered, which was November of 2006, Deputy Rivas had been 1801 suspended for approximately, what, a year, a year

plus, which means that he had no pay and that was a...no, that's a, that's a factor to consider. You may, you may disagree with it and I'm just gonna say that in general that as somebody who represents Deputy Rivas of the situation, people make evaluations on these type of situations factoring in a lot of factors. You may...if God forbid you're ever in a situation like this, you may not have handled it the same way and I respect that, but he's indicated what his motivation was and I'm gonna request that he don't go any further in that because he did what he did. He indicated why he did it and that's, you know, I don't think anything more is gonna be gained.

Denison: Noted for the record. Is there any other reason, other than what you've stated that you would've pled guilty?

Rivas: No, sir. And it...believe me, it takes a man to accept something like this, just to go back to, to the department.

Garcia: You're fully aware that the executives are gonna review this case and then review this interview, even though it's a long one, then review your answers. They're gonna look at what you've said. Is there anything that you want to express today when they're reviewing and considering discipline against you that you want them to know about?

Rivas: No, I just want to....

Kander: Or do you want an opportunity to discuss it with me?

Rivas: I just want to talk to my attorney.

Denison: We're gonna go off tape and it is 1344 hours. We're back on tape. It is 1351 hours and before we went on break, we asked you if there was anything that you'd like to add. Go ahead.

Rivas: Deputy Rivas, and I just want the department to know that I, I, I reported my use of force late and I'm fully responsible for it. That the force that I used is the force that I reported in my report and also I want the department to know that I didn't try to dissuade any deputies or inmates from reporting the force. It's been a tough experience and I accept responsibility for it, for it and I hope to move forward from my mistake and in the future I would report the force right away. Thank you.

Refer to the next two pages (pages 14 and 15) for a time line that summarizes some of the issues related to this incident. It was written to facilitate the readers ability to follow the chain of events as stated by Subject Rivas and the witnesses, and is not a comprehensive list of all events related to this incident.

TIME LINE
IV#2148668
(DEPUTY MARCO RIVAS [redacted]

May 4, 2005 0545 hrs.	Deputy Marco Rivas starts AM shift at Twin Towers Correctional Facility Module 142.
May 4, 2005 B/T 0745 & 0810 hrs.	I/M [redacted] starts a physical fight with I/M [redacted] within Module 142, D-Pod. Deputies: [redacted], [redacted], [redacted] and Marco Rivas enter D-Pod and stop the fight between the inmates using verbal commands.
May 4, 2005	Deputies Rivas and [redacted] escort I/M [redacted] from the Pod, to the "Staging" area, immediately after the inmate fight. Within seconds, Deputy [redacted] leaves Deputy Rivas alone with I/M [redacted] and returns to D-Pod to assist Deputies [redacted] and [redacted].
May 4, 2005 (seconds after being left alone with inmate)	Deputy Rivas uses force against I/M [redacted] near the stairs in the staging area then moves I/M [redacted] to the "A,B,C Outdoor Recreation" area where he uses force on I/M [redacted] again.
May 4, 2005 B/T 0810 & 0840 hrs.	Deputy [redacted] makes four attempts to convince Deputy Rivas to report his use of force to a supervisor.
May 4, 2005 0830 hrs.- ?	Deputy Rivas attends briefing (0830 hrs.), conducts pill call in 142, issues inmate passes, supervises normal operations of inmates within the module.
May 4, 2005 0850 hrs.	Deputy [redacted] reports his observations and concerns regarding the use of force to Sergeant Joseph Giunta [redacted]
May 4, 2005 (unknown time)	Deputy [redacted] advises Deputy Rivas to report the use of force.
May 4, 2005 0930 hours	Deputy Rivas informs Sergeant Giunta that he used force on I/M [redacted].
May 4, 2005	Deputy [redacted] writes Use Of Force memorandum to Lieutenant George Vanacek [redacted] and completes a Use Of Force (witness) memorandum. Deputies [redacted], Rivas and Custody Assistant [redacted] complete Use Of Force memorandums.
May 4, 2005 B/T 1200 & 1510 hrs.	Sergeants Giunta and Brian Fitch [redacted] conduct interviews as part of a use of force investigation.

May 4, 2005	Internal Criminal Investigation Bureau (ICIB) starts investigation. Deputy Rivas is relieved of duty.
May 4, 2005 1205 hrs.	I/M [redacted] is seen by medical staff for his injuries and writes statement on "Inmate Injury Report" regarding the use of force on him by Deputy Rivas.
May 5, 2005 1120 hrs.	Deputy Rivas' "Incident Report" (SH-R 49) under File# 005-00724-5800-054 regarding the assault on I/M [redacted] by I/M [redacted] is approved by Sergeant Giunta.
January 18, 2006	Deputy District Attorney Margo Baxter filed one felony count of Assault Under The Color Of Authority- 149 P.C., and one felony count of Filing A False Police Report- 118.1 P.C. against Deputy Rivas.
February 7, 2006	Deputy Rivas is arraigned in Department 30 of the Los Angeles Superior Court at the Clara Shortridge Foltz Criminal Justice Center. Deputy Rivas is arrested and booked for 149 P.C. and 118.1 P.C.
June 14, 2006	Deputy Rivas is held to answer on one count of Felony 149 P.C. The 118.1 P.C. count was dismissed due to Deputy Rivas' reports determined to be compelled documents.
November 7, 2006	Deputy Rivas pleads guilty to one misdemeanor count of Assault Under The Color Of Authority- 149 P.C. and is convicted and sentenced by the court to: 1) Summary Probation for 18 months, 2) 160 hours of Community Service, 3) Pay Restitution Fine of $100.00 to the court, 4) Must not use Force or Violence on the victim, 5) Must not Harass, Molest or Annoy the victim, 6) Must obey all Laws and Further Orders of the court, 7) Must enroll and complete a 6-month Anger Management Program (26-weeks).



LEROY D. BACA, SHERIFF

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



June 28, 2007

Deputy Marco Rivas, #[redacted]

[redacted]

Deputy Rivas:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective at the close of business on July 20, 2007.

An investigation under File Number IAB 2148668, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/025.10, Unreasonable Force and/or 3-01/050.10, Performance to Standards, on or about May 4, 2005, after removing an inmate [redacted] from D-Pod at Twin Towers Correctional Facility, you used force that was not objectively reasonable, as evidenced by, but not limited to:

    a) kicking Inmate [redacted] in his upper body 2-3 times, and/or;

    b) punching Inmate [redacted] on the left side of his face 2-3 times, and/or;

    c) punching Inmate [redacted] in his back 3-4 times.

    The force you used against Inmate [redacted] was not reasonable and you therefore failed to conform to the work standards established for your position as a deputy sheriff.

2. That in violation of Manual of Policy and Procedures Sections 3-01/050.10, Performance to Standards and/or 3-01/030.10, Obedience to Laws, Regulations and Orders (specifically as it relates to Manual Section 5-09/430.00, Use of Force, Reporting and Review Procedures), on or about May 4, 2005, you failed to immediately report your use of force to your immediate supervisor as required by Department policy and/or waited approximately one hour and forty minutes before reporting your use of force.

3. That in violation of Manual of Policy and Procedures Sections 3-01/040.70, False Statements; and/or 3-01/040.76, Obstructing an Investigation; and/or 3-01/050.10, Performance to Standards, on or about May 4, 2005, you failed to report that you had used force in your initial Department Incident Report. Moreover, you reported false information in your supplemental report as to the reasons force was used, as evidenced by, but not limited to:

    a) Inmate [redacted] became assaultive by kicking his legs in your direction, and/or;

    b) Inmate [redacted] did not comply when you told him to stop resisting and kicking, and/or;

    c) Inmate [redacted] attempted to push off the floor and roll to his side, and/or;

    d) once inside the ABC recreation area, Inmate [redacted] continued to be resistive, and/or;

    e) after telling Inmate [redacted] to face the wall, he did not comply.

4. That in violation of Manual of Policy and Procedures Sections 3-01/030.10, Obedience to Laws, Regulations and Orders; and/or 3-01/030.05, General Behavior; and/or 3-01/050.10, Performance to Standards, on or about November 7, 2006, you pled "guilty" and were convicted of 149 P.C., Assault Under Color of Authority, which deems you incapable of performing the essential functions of a deputy sheriff.

You may respond to the intended action orally or in writing. In the event that you choose to respond orally to these charges, you have already been scheduled to meet with Chief Sammy Jones on July 17, 2007, at 1400 hours, in his office, which is located at Twin Towers Correctional Facility, 450 Bauchet Street, Los Angeles, Room E-801. If you are unable to appear at the scheduled time and wish to schedule some other time prior to July 17, 2007, for your oral response, please call Chief Jones' secretary at [redacted] for an appointment.

If you choose to respond in writing, please call Chief Jones' secretary to cancel your scheduled appointment, and send your response to the facts contained in this letter to Chief Jones' office by no later than July 17, 2007.

Unless you are currently on some other type of authorized leave, pursuant to Rule 16.01 of the Los Angeles County Civil Service Commission Rules, effective immediately, you are on paid administrative leave which will continue during the fifteen (15) business days you have to respond to the intended discharge or until the conclusion of your pre-disciplinary hearing. If you are presently on an authorized leave, that leave will continue during the fifteen (15) business days you have to respond to the intended discharge, or until the conclusion of your pre-disciplinary hearing.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

If you did not receive the investigative material on which your discipline is based at the time you were served with this correspondence, you may contact the Internal Affairs Bureau at (323) 890-5300, to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Karyn Mannis

Karyn Mannis, Captain
Internal Affairs Bureau





LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD & CORRUPTION PROSECUTIONS

STEVE COOLEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

JANICE L. MAURIZI • Director

January 18, 2006

MARCO RIVAS
[redacted]

Dear Sir or Madam:

RE: Case # BA296353

A complaint has been filed by this office against you alleging a violation of Section(s): PC149 ASSAULT BY A PUBLIC OFFICER, PC118.1 FILING A FALSE REPORT.

You are hereby notified to appear at the LOS ANGELES MUNICIPAL Court, Department 30 at 210 W. TEMPLE ST., ROOM 5-307, LOS ANGELES, CA 90012 on February 7, 2006 at 08:30 AM.

Please bring this letter with you.

If you fail to appear as set forth above, a warrant for your arrest will be issued.

Sincerely,
STEVE COOLEY
District Attorney

By Margo Baxter
MARGO BAXTER
Deputy District Attorney

210 W TEMPLE STREET 18-206
LOS ANGELES, CA 90012
(213) 974-3888
Fax: (213) 620-1208

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Rev. 588-11/97 DA Case 26908825

SETTLEMENT AGREEMENT

PRELIMINARY STATEMENT

This agreement is entered into between the Los Angeles County Sheriff's Department (hereinafter referred to as "Department") and Marco Rivas, Employee Number [redacted]

RECITALS

The Department and Marco Rivas are interested parties in the investigation under Internal Affairs Bureau No. 2148668 and Civil Service Case number 06-095. Both desire to resolve all disputes arising as the result of these matters, to avoid litigation and further administrative process upon the terms and conditions hereinafter set forth.

NOW THEREFORE, the Department and Marco Rivas for and in consideration of the mutual covenants herein, agree as follow:

1. Upon execution of this agreement, the Department will reduce the intended discharge to a demotion from the position of Deputy Sheriff, Item No. 2708A, to the position of Security Officer, Item No. 2828, which he accepts without appeal.

2. Upon execution of this document, Marco Rivas will be assigned to Twin Towers Correctional Facility.

3. Marco Rivas understands and agrees that he is to serve a new probationary period for a period of (9) nine months upon appointment. Furthermore, he must satisfactorily serve the probationary period before the appointment is complete. Failure to pass probation will result in his dismissal from the Department without the right to appeal.

4. Marcos Rivas agrees that within five (5) business days he will withdraw his Civil Service appeal relating to his Rule 18.01 suspension, Civil Service Case number 06-095. He further agrees and understands that he is not entitled to any back pay, salary, interest, payment or any other emoluments of employment as a result of this agreement, including, but not limited to, the period covering his Rule 18.01 suspension.

5. Moreover, Marco Rivas agrees to waive all rights in IAB Case Number 2148668, pursuant to Skelly v. State Personnel Board (1975) 15 Cal.3d 194 Cal.Rptr. 14.

6. Marco Rivas agrees to waive any and all further administrative or judicial remedies with respect to the discipline as stated herein, including but not limited to the Los Angeles County Civil Service Commission or the Los Angeles County Employee Relations Commission.

SETTLEMENT AGREEMENT

7. The parties further agree that this settlement shall not be considered, cited or used in any future dispute between the Department and any other department employee as establishing precedent or past employment practice. This Agreement resolves the dispute between Marco Rivas and the Department, and is not to be applied to any other facts or disputes.

8. In consideration of the terms and conditions set forth herein, Marco Rivas agrees to fully release, acquit and forever discharge the County, their heirs, successors, assigns, and legal representatives from any and all liability whatsoever for any and all claims arising out of or connected with the employment relationship between the County and Marco Rivas concerning the subject matter referred to herein. Additionally, Marco Rivas specifically acknowledges that he has not been the subject of discrimination in any form, including but not limited to discrimination based upon age, race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status or sex, and that he has no claim against the Department for any such discrimination, whether any such claim is presently known or not known to him.

9. Marco Rivas further agrees, with regard to this litigation, to relinquish and expressly waives all rights conferred upon her by the provisions of California Civil Code Section 1542, which reads as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

10. The parties agree that this Agreement may be specifically enforced in court and may be used as evidence in a subsequent proceeding in which any of the parties allege a breach of this Agreement.

11. This agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy of facsimile transmission of the agreement, including signatures, shall be deemed to constitute evidence of the agreement having been executed.

12. The date of the last signature placed hereon shall hereinafter be known as the "date of execution" and the effective date" of this agreement.

[redacted] [redacted]

SETTLEMENT AGREEMENT

13. The parties agree that this is the complete settlement agreement and that no other promises have been made by either party. The parties further agree that no changes may be made to this settlement agreement unless both parties reduce the changes to writing and sign them.

14. Each party hereto represents and agrees that he/she or it has carefully read and fully understands all of the provisions of the Agreement, and that he/she or it is voluntarily, without any duress or undue influence on the part of or on behalf of any party, entering into this Agreement.

I have read the forgoing Settlement Agreement and I accept and agree to the provisions contained therein and hereby execute it voluntarily and with full understanding of its consequences. I further acknowledge that I have been afforded the opportunity to consult with legal counsel prior to signing this agreement.

Marco Rivas, #[redacted] — 06/24/08
Date

APPROVED AS TO FORM ONLY

Mitch Kander, Esq.
Green & Shinee — 6/24/08
Date

FOR THE DEPARTMENT:

DENNIS BURNS, CHIEF
CUSTODY OPERATIONS DIVISION — 6-25-08
Date



Leroy D. Baca, Sheriff

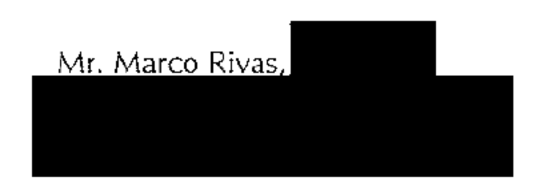
County of Los Angeles

Sheriff's Department Headquarters

4700 Ramona Boulevard
Monterey Park, California 91754-2169



June 26, 2008



Mr. Marco Rivas, [redacted]

Mr. Rivas:

On June 28, 2007, you were served with a Letter of Intention, indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under IAB File Number 2148668. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. After reviewing the response submitted to support your position, the Department executives have amended the recommended discipline.

You are hereby notified that pursuant to a settlement agreement between you and this Department dated June 25, 2008, you are reduced in rank from the position of Deputy Sheriff, Item No. 2708A, to the position of Security Officer, Item No. 2828A.

An investigation under File Number IAB 2148668, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/025.10, Unreasonable Force and/or 3-01/050.10, Performance to Standards, on or about May 4, 2005, after removing an inmate [redacted] from D-Pod at Twin Towers Correctional Facility, you used force that was not objectively reasonable, as evidenced by, but not limited to:

    a) kicking Inmate [redacted] in his upper body 2-3 times, and/or;



b) punching Inmate [redacted] on the left side of his face 2-3 times, and/or;

c) punching Inmate [redacted] in his back 3-4 times.

The force you used against Inmate [redacted] was not reasonable and you therefore failed to conform to the work standards established for your position as a deputy sheriff.

2. That in violation of Manual of Policy and Procedures Sections 3-01/050.10, Performance to Standards and/or 3-01/030.10, Obedience to Laws, Regulations and Orders (*specifically as it relates to Manual Section 5-09/430.00, Use of Force, Reporting and Review Procedures*), on or about May 4, 2005, you failed to immediately report your use of force to your immediate supervisor as required by Department policy and/or waited approximately one hour and forty minutes before reporting your use of force.

3. That in violation of Manual of Policy and Procedures Sections 3-01/040.70, False Statements; and/or 3-01/040.76, Obstructing an Investigation; and/or 3-01/050.10, Performance to Standards, on or about May 4, 2005, you failed to report that you had used force in your initial Department Incident Report. Moreover, you reported false information in your supplemental report as to the reasons force was used, as evidenced by, but not limited to:

a) Inmate [redacted] became assaultive by kicking his legs in your direction, and/or;

b) Inmate [redacted] did not comply when you told him to stop resisting and kicking, and/or;

c) Inmate [redacted] attempted to push off the floor and roll to his side, and/or;

d) once inside the ABC recreation area, Inmate [redacted] continued to be resistive, and/or;

e) after telling Inmate [redacted] to face the wall, he did not comply.

4. That in violation of Manual of Policy and Procedures Sections 3-01/030.10, Obedience to Laws, Regulations and Orders; and/or 3-01/030.05, General Behavior; and/or 3-01/050.10, Performance to Standards, on or about November 7, 2006, you pled "guilty" and were convicted of 149 P.C., Assault Under Color of Authority, which deems you incapable of performing the essential functions of a deputy sheriff

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Karyn Mannis, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

KM:lh

c: Advocacy Unit
Chief Dennis Burns, Custody Operations Division
Internal Affairs Bureau
Personnel Administration
Office of Independent Review (OIR)
Unit of Assignment/Twin Towers Correctional Facility